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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART IV-C

**Statutory Rules and Orders (Other than those published in Parts I, I-A and I-L)
made by Statutory Authorities other than the Government of Gujarat
including those made by the Government of India, the High Courts, the
Director of Municipalities, the Commissioner of Police, the Director of
Prohibition and Excise, the District Magistrates and the Election
Commission, Election Tribunals, Returning Officers and other
authorities under the Election Commission.**

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi - 110 001

NOTIFICATION

Dated: 09th June, 2022
19 Jyaistha, 1944 (Saka)

No. 82/GJ/(1/2019)/2022 – In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951) the Election Commission of India hereby publishes the judgment/order dated 22.04.2022 of the High Court of Gujarat at Ahmedabad in Election Petition No. 1 of 2019 (Kunvarjibhai Mohanbhai Bavaliya v/s Nirupaben Natvarlal Madhu)

(HERE PRINT THE JUDGMENT/ORDER)

BY ORDER,

(SUJEET KUMAR MISHRA)
SECRETARY

ELECTION COMMISSION OF INDIA

भारत निर्वाचन आयोग

निर्वाचन सदन, अशोक रोड, नई दिल्ली – 110 001

अधिसूचना

तारीख : 09 जून, 2022
19 ज्येष्ठ, 1944 (शक)

सं० :- 82/गुज०/(1/2019)/2022 – लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, भारत निर्वाचन आयोग, 2019 की निर्वाचन याचिका सं० 1 में अहमदाबाद में गुजरात उच्च न्यायालय के दिनांक 22.04.2022 के निर्णय/आदेश को एतद्वारा प्रकाशित करता है (कंवरजीभाई मोहनभाई बावालिया विरुद्ध निरूपाबेन नटरवरलाल मधु)

(संलग्न निर्णय/आदेश यहां छापें)

आदेश से,

(सुजीत कुमार मिश्र)
सचिव
भारत निर्वाचन आयोग

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/ELECTION APPLICATION NO. 10 of 2019****With****R/ELECTION PETITION NO. 1 of 2019****With****R/ELECTION APPLICATION NO. 15 of 2019****With****R/ELECTION APPLICATION NO. 14 of 2019**

1 KUNVARJIBHAI MOHANBHAI BAVALIYA
 SHAIKSHANIK SANKUL, MU. AMRAPUR, TAL. VINCHIYA, DIST. RAJKOT

Applicant(s)**VERSUS**

- 1 NIRUPABEN NATVARLAL MADHU
564, ADARSH NAGAR, SECTOR 24, MU. TAL. AND DIST. GANDHINAGAR
- 2 AVASARBHAI KANJIBHAI NAKIYA
PIPARDI ROAD AREA, MU. AASALPUR, TAL. VINCHIYA, DIST. RAJKOT
- 3 DHARAMSHIBHAI RAMJIBHAI DHAPA
PLOT NO. 18, GHOGHA ROAD, NR. MOTA SHITLA MATA TEMPLE, MAITRY SOCIETY, MU.
TAL. DIST. BHAVNAGAR
- 4 DINESHBHAI SHANABHAI PATEL
8-A, GULNAR, MINAR - GULNAR, APARTMENT, VIDHYANAGAR ROAD, MU. TAL. DIST.
ANAND
- 5 NATHABHAI PUNJABHAI CHITRODA
DR. AMBEDKAR NAGAR SHERI NO. 3, BHADAR ROAD, MU. TAL. JASDAN, DIST. RAJKOT FOR
NOTICE ADDRESS , 7, LAXMI SOCIETY, NANA MAVA ROAD, MU. TAL. DIST. RAJKOT
- 6 MUKESHBHAI MOHANBHAI BHENSJALIYA
VAJASPURA, SHERI NO. 12, MU. TAL. JASDAN, DIST. RAJKOT
- 7 BHARATBHAI JESABHAI MANKOLIYA
AT. POLARPAR ROAD, SHAKTINAGAR, MU. TAL. JASDAN, DIST. RAJKOT
- 8 SHAILESHBHAI VASHRAMBHAI CHHAYANI
GADHADIYA ROAD, MU. TAL. JASDAN, DIST. RAJKOT
- 9 PRAVINBHAI JAGABHAI ROJASARA
GANJIVADA , MAHAKALI C-HOWK, SHERI NO. 43, MU. TAL. DIST. RAJKOT
- 10 ELECTION OFFICER
72-JASDAN, GUJARAT STATE LEGISLATIVE ASSEMBLY CONSTITUENCY BY ELECTION 2018
AT. PRANT OFFICE, KAMLAPUR ROAD, MU. TAL. JASDAN, DIST. RAJKOT
- 11 CHIEF ELECTION OFFICER, GUJARAT STATE
NEW SACHIVALAYA, BLOCK NO. 7, 2ND FLOOR, MU. TAL. DIST. GANDHINAGAR
- 12 COMMISSIONER, ELECTION COMMISSION OF INDIA
OFFICE OF ELECTION COMMISSION OF INDIA, ASHOK ROAD, NEW DELHI

Respondent(s)**Appearance:**

MR C B UPADHYAYA(3508) for the Applicant(s) No. 1
 MR GIRISH M DAS(2323) for the Respondent(s) No. 1
 PARTY IN PERSON(5000) for the Respondent(s) No. 1

CORAM: HONOURABLE MR. JUSTICE A.G.URAIZEE

Date of Decision: 22/04/2022

ORAL ORDER

(Per :HONOURABLE MR. JUSTICE A.G.URAIZEE)

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/ELECTION PETITION NO. 1 of 2019**

1 MADHU NIRUPABEN NATVARLAL
564, ADARSH NAGAR, SECTOR 24, MU. TAL. AND DIST. GANDHINAGAR

Petitioner(s)**VERSUS**

- 1 BAVALIYA KUNVARJIBHAI MOHANBHAI
SHAIKSHANIK SANKUL, MU. AMRAPUR, TAL. VINCHIYA, DIST. RAJKOT
- 2 NAKIYA AVASARBHAI KANJIBHAI
PIPARDI ROAD AREA, MU. AASALPUR, TAL. VINCHIYA, DIST. RAJKOT
- 3 DHAPA DHARAMSHIBHAI RAMJIBHAI
PLOT NO. 18, GHOGHA ROAD, NR. MOTA SHITLA MATA TEMPLE, MAITRY SOCIETY, MU.
TAL. DIST. BHAVNAGAR
- 4 PATEL DINESHBHAI SHANABHAI
8-A, GULNAR, MINAR - GULNAR, APARTMENT, VIDHYANAGAR ROAD, MU. TAL. DIST.
ANAND
- 5 CHITRODA NATHALAL PUNJABHAI
DR. AMBEDKAR NAGAR SHERI NO. 3, BHADAR ROAD, MU. TAL. JASDAN, DIST. RAJKOT FOR
NOTICE ADDRESS , 7, LAXMI SOCIETY, NANA MAVA ROAD, MU. TAL. DIST. RAJKOT
- 6 BHENSJALIYA MUKESHBHAI MOHANBHAI
VAJASPURA, SHERI NO. 12, MU. TAL. JASDAN, DIST. RAJKOT
- 7 MANKOLIYA BHARATBHAI JESABHAI
AT. POLARPAR ROAD, SHAKTINAGAR, MU. TAL. JASDAN, DIST. RAJKOT
- 8 CHHAYANI SHAILESHBHAI VASHRAMBHAI
GADHADIYA ROAD, MU. TAL. JASDAN, DIST. RAJKOT
- 9 ROJASARA PRAVINBHAI JAGABHAI
GANJIVADA , MAHAKALI CHOWK, SHERI NO. 43, MU. TAL. DIST. RAJKOT
- 10 ELECTION OFFICER
72-JASDAN, GUJARAT RAJYA VIDHANSABHA, MAT VIBHAG SUB ELECTION 2018 AT. PRANT
OFFICE, KAMLAPUR ROAD, MU. TAL. JASDAN, DIST. RAJKOT
- 11 CHIEF ELECTION OFFICER, GUJARAT STATE
NEW SACHIVALAYA, BLOCK NO. 7, 2ND FLOOR, MU. TAL. DIST. GANDHINAGAR
- 12 COMMISSIONER, ELECTION COMMISSION OF INDIA
OFFICE OF ELECTION COMMISSION OF INDIA, ASHOK ROAD, NEW DELHI

Respondent(s)**Appearance:**

PARTY IN PERSON(5000) for the Petitioner(s) No. 1
MR C B UPADHYAYA(3508) for the Respondent(s) No. 1
MR. SAHIL M SHAH(6318) for the Respondent(s) No. 10-12
NOTICE SERVED(4) for the Respondent(s) No. 2-9

CORAM: HONOURABLE MR. JUSTICE A.G.URAIZEE

Date of Decision: 22/04/2022

ORAL ORDER

(Per : HONOURABLE MR. JUSTICE A.G.URAIZEE)

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/ELECTION APPLICATION NO. 15 of 2019**

1 THE ELECTION OFFICER

72-JASDAN, GUJARAT RAJYA VIDHANSABHA, MAT VIBHAG SUB ELECTION 2018 AT. PRANT
OFFICE, KAMLAPUR ROAD, MU. TAL. JASDAN, DIST. RAJKOT

2 CHIEF ELECTION OFFICER

AT BLOCK NO 7/2 SARDAR BAHVAN NEW SACHIVALAY GANDHINAGAR

3 COMMISSIONER, ELECTION COMMISSION OF INDIA

OFFICE OF ELECTION COMMISSION OF INDIA, ASHOK ROAD, NEW DELHI

Applicant(s)

VERSUS

1 MADHUBEN NIRUPABEN NATVARLAL

564, ADARSH NAGAR, SECTOR 24, MU. TAL. AND DIST. GANDHINAGAR

2 BAVALIYA KUNVARJIBHAI MOHANBHAI

SHAIKSHANIK SANKUL, MU. AMRAPUR, TAL. VINCHIYA, DIST. RAJKOT

3 NAKIYA AVASARBHAI KANJIBHAI

MU. AASALPUR, TAL. VINCHIYA, DIST. RAJKOT

4 DHAPA DHARAMSHIBHAI RAMJIBHAI

PLOT NO. 18, GHOGHA ROAD, NR. MOTA SHITLA MATA TEMPLE, MAITRY SOCIETY, MU.
TAL. DIST. BHAVNAGAR

5 PATEL DINESHBHAI SHANABHAI

8-A, GULNAR, MINAR - GULNAR, APARTMENT, VIDHYANAGAR ROAD, MU. TAL. DIST.
ANAND

6 CHITRODA NATHALAL PUNJABHAI

DR. AMBEDKAR NAGAR SHERI NO. 3, BHADAR ROAD, MU. TAL. JASDAN, DIST. RAJKOT FOR
NOTICE ADDRESS , 7, LAXMI SOCIETY, NANA MAVA ROAD, MU. TAL. DIST. RAJKOT

7 BHENSJALIYA MUKESHBHAI MOHANBHAI

VAJASPURA, SHERI NO. 12, MU. TAL. JASDAN, DIST. RAJKOT

8 MANKOLIYA BHARATBHAI JESABHAI

AT. POLARPAR ROAD, SHAKTINAGAR, MU. TAL. JASDAN, DIST. RAJKOT

9 CHHAYANI SHAILESHBHAI VASHRAMBHAI

GADHADIYA ROAD, MU. TAL. JASDAN, DIST. RAJKOT

10 ROJASARA PRAVINBHAI JAGABHAI

GANJIVADA , MAHAKALI CHOWK, SHERI NO. 43, MU. TAL. DIST. RAJKOT

Respondent(s)

Appearance:

MR. SAHIL M SHAH(6318) for the Applicant(s) No. 1-3

CORAM: **HONOURABLE MR. JUSTICE A.G.URAIZEE**

Date of Decision: 22/04/2022

ORAL ORDER

(Per :**HONOURABLE MR. JUSTICE A.G.URAIZEE**)

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/ELECTION APPLICATION NO. 14 of 2019****1 ELECTION OFFICER**

72-JASDAN ASSEMBLY CONSTITUENCY BYE ELECTION 2018, AT. PRANT OFFICE, KAMLAPUR ROAD, MU. TAL. JASDAN, DIST. RAJKOT

2 CHIEF ELECTORAL OFFICER

OFFICE AT BLOCK NO. 7/2, SARDAR BHAVAN, NEW SACHIVALAYA, GANDHINAGAR

3 COMMISSIONER, ELECTION COMMISSION OF INDIA

OFFICE OF ELECTION COMMISSION OF INDIA, NIRVACHAN SADAN, ASHOK ROAD, NEW DELHI

Applicant(s)**VERSUS****1 MADHU NIRUPABEN NATVARLAL**

564, ADARSH NAGAR, SECTOR 24, GANDHINAGAR, GUJARAT

2 . BAVALIYA KUNVARJIBHAI MOHANBHAI

RESID AT SHAIKSHANIK SANKUL, TAL. VINCHIYA, DISTRICT RAJKOT

3 NAKIYA AVASARBHAI KANJIBHAI

TO AASALPUR, TAL. VINCHIYA, DISTRICT RAJKOT

4 DHAPA DHARAMSHIBHAI RAMJIBHAI

PLOT NO. 18, GHOGHA ROAD, NR. MOTA SHITLA MATA TEMPLE, MAITRY SOCIETY, TALUKA AND DISTRICT BHAVNAGAR

5 PATEL DINESHBHAI SHANABHAI

8-A, GULNAR, MINAR - GULNAR, APARTMENT, VIDHYANAGAR ROAD, TAL. AND DISTRICT ANAND

6 CHITRODA NATHALAL PUNJABHAI

DR. AMBEDKAR NAGAR SHERI NO. 3, TALUKA JASDAN, DISTRICT RAJKOT FOR NOTICE ADDRESS , 7, LAXMI SOCIETY, NANA MAVA ROAD, TAL. AND DISTRICT RAJKOT

7 BHENSJALIYA MUKESHBHAI MOHANLAL

VAJASPURA, SHERI NO. 12, TAL. JASDAN, DISTRICT RAJKOT

8 MANKOLIYA BHARATBHAI JESABHAI

AT. POLARPAR ROAD, SHAKTINAGAR, TAL. JASDAN, DISTRICT RAJKOT

9 CHHAYANI SHAILESHBHAI VASHRAMBHAI

GADHADIYA ROAD, TAL. AND DISTRICT RAJKOT

10 ROJASARA PRAVINBHAI JAGABHAI

GANJIVADA , MAHAKALI CHOWK, SHERI NO. 43, TAL. AND DIST. RAJKOT

Respondent(s)**Appearance:**

MR. SAHIL M SHAH(6318) for the Applicant(s) No. 1-3
PARTY IN PERSON(5000) for the Respondent(s) No. 1

MR C B UPADHYAYA(3508) for the Respondent(s) No. 2

CORAM: HONOURABLE MR. JUSTICE A.G.URAIZEE

Date of Decision: 22/04/2022

ORAL ORDER

(Per :HONOURABLE MR. JUSTICE A.G.URAIZEE)

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/ELECTION APPLICATION NO. 10 of 2019
With
R/ELECTION APPLICATION NO. 1 of 2019
With
R/ELECTION APPLICATION NO. 15 of 2019
With
R/ELECTION APPLICATION NO. 14 of 2019

=====

KUNVARJIBHAI MOHANBHAI BAVALIYA
Versus
NIRUPABEN NATVARLAL MADHU

=====

Appearance:

MR C B UPADHYAYA(3508) for the Applicant(s) No. 1
for the Respondent(s) No. 10,11,12,2,3,4,5,6,7,8,9/
MR GIRISH M DAS(2323) for the Respondent(s) No. 1
PARTY IN PERSON(5000) for the Respondent(s) No. 1

=====

CORAM: HONOURABLE MR. JUSTICE A.G. URAIZEE

Date : 29/09/2020

ORAL ORDER

1. The applicant who happens to be the respondent No.1 in the Election Petition No.1 of 2019 has taken out this application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 for rejection of Election Petition No.1 of 2019 preferred by respondent No.1 herein original petitioner of the Election Petition.

2. The respondent No.1 herein has filed Election Petition No.1 of 2019 challenging the Election of present applicant who is the returned candidate for 72th General Constituency by Gujarat State Election Legislative Assembly which was held on 4.12.2018. The respondent No.1 has challenged the election of the present applicant on the ground that in the affidavit which he has produced in support of his form, does not mentioned "deponent" below his signature and that he has taken oath in Gujarati in place of English as the form abandoned to Article 173 of the Constitution of India.

3. The present applicant has essentially sought rejection of the Election Petition under Order 7 Rule 11 of the Code on the following main grounds:

(i) *that the petition suffers from a misjoinder of parties. The Election Officer, Chief Election Officer and Election Commission are not necessary parties as contemplated under Section 83 of R.P. Act.*

(ii) *The petition is not file in the form as contemplated by Section 83 of the R.P. Act.*

(iii) *The Election Petition filed by the respondent No.1 herein deserves to be dismissed as it does not comply with Section 81 or 82 or 117 as required, and therefore, the petition deserves to be dismissed under Section 86(1) of the R.P. Act.*

(iv) *The Election Petition deserves to be dismissed for non-compliance of Gujarat High Court governing the present of Election Petition.*

4. In support of the submission, Mr. Upadhyay, learned advocate for the applicant has relied upon the following decisions:-

(i) *Virjtram Sutaria v. Nāthalal Premji Bhavadia & Ors. [1969 (1) SCC 77]*

(ii) *Jat Bhansingh Pawatya v. Madhavrao and Ors. (Election Petition No.4 1998, decided on 18.08.1999)*

(iii) *Mantsh Kanatyalal Gupta v. State of Gujarat [Criminal Reference No.4/2015, decided on 08/07/2015]*

(iv) *Rajendra Kumar Meshram v. Vanshmani Prasad Verma [(2016) 10 SCC 715].*

5. The respondent No.1-party-in-person has manly submitted in her written submission that the present application is not affirmed before the competent officer. The respondent No.1 has not in her written submission

adverted to the grounds canvassed by the learned advocate for the applicant for dismissal of the Election Petition.

6. Section 86 of the R.P. Act which is relevant for the disposal of the present application reads as under:

“86. Trial of election petitions. (1) The High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117.

(2) As soon as may be after an election petition has been presented to the High Court, it shall be referred to the Judge or one of the Judges who has or have been assigned by the Chief Justice for the trial of election petitions under sub-section (2) of Section 80 A.

(3) Where more election petitions than one are presented to the High Court in respect of the same election, all of them shall be referred for trial to the same Judge who may, in his discretion, try them separately or in one or more groups.

(4) Any candidate not already a respondent shall, upon application made by him to the High Court within fourteen days from the date of commencement of the trial and subject to any order as to security for costs which may be made by the High Court, be entitled to be joined as a respondent.

(5) The High Court may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.

6) The trial of an election petition shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion, unless the High

Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.

(7) Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial.”

7. The perusal of the Election Petition No.1 of 2019 filed by the respondent No.1 herein makes it abundantly clear that it does not comply with the provision of either Section 81 or Section 82 or Section 117 of the R.P. Act as none of the grounds canvassed in the Election Petition do not fall under Section 101 of the R.P. Act.

8. Section 100 of the R.P. Act provides as under for declaring election to be void:

“100. Grounds for declaring election to be void.-(1) subject to the provisions of sub-section (2) iff [the High Court] is of opinion—

(a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act or the Government of Union Territories Act, 1963 (20 of 1963) or

(b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(c) that any nomination has been improperly rejected; or

(d) that the result of the election, in so far as it concerns a returned candidates, has been materially affected-

(i) by the improper acceptance of any nomination, or

(ii) by any corrupt practice committed in the interests of the

returned candidate by an agent other than his election agent, or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

(iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act, [the High Court] shall declare the election of the returned candidate to be void]

*(2) If in the opinion of the High Court, a returned candidate has been guilty by an agent other than his election agent, of any corrupt practice [***] but [the High Court] is satisfied--*

*(a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and [without the consent], of the candidate or his election agent [***]*

*(c) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt [***] practices at the election;*

*(d) that in all other respects the election was free from any corrupt [***] practice on the part of the candidate or any of his agent, then [the High Court] may decide that the election of the returned candidate is not void."*

9. The respondent No.1 has essentially questioned the acceptance of nomination of the applicant on the ground that the affidavit submitted in support of nomination form is not in form Prescribed under Article 173, it is the form is in in English language and in the bottom of the affidavit the word "deponent" and "Saugandhkarna" is not mentioned. Therefore, according to the respondent No.1, the nomination of the applicant ought to have been rejected by the election officer. It is no one of the grounds that the affidavit supported and the nomination form ought to be in English language and that in the bottom of the affidavit the word "deponent" and "Saugandhkarna"

should be mentioned. The perusal of Section 100 of the R.P. Act as noted in the afore-going enumerates the grounds on which an election of successful candidate can be declared as void. In my opinion, the language of the affidavit and no writing of the word “deponent” and “saugandhkarna” in the affidavit submitted by a candidate along-with his nomination paper as prescribed by form 26 does not in my opinion materially affect the details mentioned in the affidavit if otherwise they are found to be in order.

10. The Supreme Court in the case of Virjiram Sutaria (supra) after referring to the earlier decision has held as under so far as the deviation in the form of oath or affirm is concerned. The Supreme Court in the case of Virjiram Sutaria has held that the essential requirement of, Article 173, read with FORM VII-A, was that the person taking the oath or making the affirmation would bear true faith and allegiance to the Constitution and uphold the sovereignty and integrity of India. The words which precede this portion are merely descriptive of the person and of his nomination as a candidate. It is reasonable to think that a mere mis-print in the form of the oath or a mere inaccuracy in rendering the expression “Legislative Assembly” in Gujarati would not be fatal to the election of the candidate, if otherwise valid.

11. The Supreme Court in the case of Rajendra Kumar Messshram v. Vanshmani Prasad Verma (supra) has considered the relative scope of Section 100(i)(d) and (c) and held as under:-

"10, Under Section 100(1)(d), an election is liable to be declared void on the ground of improper acceptance of a nomination if such improper acceptance of the nomination has materially affected the result of the election. This is in distinction to what is contained in Section 100(1)(c) i.e. improper rejection of a nomination which itself is a sufficient ground for invalidating the election without any further requirement of proof of material effect of such rejection on the result of the election. The above distinction must be kept in mind. Proceeding on the said basis, we find that the High Court did not endeavour to go into the further question that would be required to be determined even if it is assumed that the appellant returned candidate had not filed the electoral roll or a certified copy thereof and, therefore, had not complied with the mandatory provision of Section 33(5) of the 1951 Act.

11. In other words, before setting aside the election on the above ground, the High Court ought to have carried out a further exercise, namely, to find out whether the improper acceptance of the nomination had materially affected the result of the election petition. This has not been done notwithstanding issue No.6 framed which is specifically to the above effect. The High Court having failed to determine the said issue i.e. issue No.6, naturally, it was not empowered to declare the election of the appellant returned candidate as void even if we are to assume that the acceptance of the nomination of the returned candidate was improper."

12. In view of the above, it is manifestly clear that submitting an affidavit in support of affirmation of affidavit in vernacular and not writing word "deponent" and "Saugandhkarna" below the affidavit cannot be said to be an improper acceptance of nomination paper filed by the applicant. Moreover, the affidavit submitted by the applicant in support of his affidavit in vernacular language (Gujarati) in support of his nomination paper cannot be termed as fatal to his election. I am, therefore, of the opinion that since the election petition preferred by the applicant is in consonance with the provision of R.P. Act the same is required to be rejected and is hereby rejected.

13. For the foregoing reasons, the present application is allowed. The Election Application No.1 of 2019 is hereby rejected under Order 7 Rule 11 of the Code.

14. Parties to bear their own costs.

Election Application No. 1 of 2019

In view of the order passed in Election Application No.10 of 2019, the Election Petition No.1 of 2019 stands dismissed.

Since the main Election Application is dismissed, the Election Application No.14 of 2019 is allowed and the EVM Machines are ordered to be returned to the applicant-State Election Commission.

Connected Election Application No.15 of 2019 also stands disposed of.

सत्यमेव जयते

THE HIGH COURT
OF GUJARAT

(A.G.URAIZEE, J)

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/ELECTION APPLICATION NO. 10 of 2019

With

R/ELECTION PETITION NO. 1 of 2019

With

R/ELECTION APPLICATION NO. 15 of 2019

With

R/ELECTION APPLICATION NO. 14 of 2019

=====

KUNVARJIBHAI MOHANBHAI BAVALIYA

Versus

NIRUPABEN NATVARLAL MADHU

=====

Appearance:

MR C B UPADHYAYA(3508) for the Applicant(s) No. 1
for the Respondent(s) No. 10,11,12,2,3,4,5,6,7,8,9

MR GIRISH M DAS(2323) for the Respondent(s) No. 1

PARTY IN PERSON(5000) for the Respondent(s) No. 1

=====

CORAM: **HONOURABLE MR. JUSTICE A.G. URAIZEE**

Date : 22/04/2022

ORAL ORDER

Perused the office submission dated 22.4.2022

It appears that in order dated 29.9.2020, in the heading of Election Petition No.1 of 2019, it is mentioned as Election Application No.1 of 2019. Likewise, in paragraph 13, it is recorded that Election Application No.1 of 2019 is hereby rejected under Order 7 Rule 11 of the Code.

It is an inadvertent mistake. It should be Election Petition instead of Election Application. Hence, in the caption of order as well as paragraph 13, instead of Election Application No.1 of 2019, it be read as Election Petition No.1 of 2019.

Office submission dated 22.4.2022 stands disposed of accordingly.

(A.G. URAIZEE, J)

